

# **GARDNER PLANNING COMMISSION**

## **Staff Report**

**DATE:** April 10, 2006

**SUBJECT:** REZONING; Z-06-03 (PDP-06-02) McCann Property Central,  
located on the southeast and northeast corners of the Waverly Road  
and 167<sup>th</sup> Street intersection

1. **APPLICANT:** Jabez Investments, L.L.C., is the applicant; with engineering services provided by Peridian Group, Inc.
2. **REQUESTED ACTION:** The applicant requests rezoning 47.64 acres from A (Agricultural District) to CP-2 (Planned Single Family Residential District) and RP-3 (Planned Garden Apartment District).
3. **LOCATION:** The 47.64 acre property is located on the southeast and northeast corners of the Waverly Road and 167<sup>th</sup> Street intersection.
4. **EXISTING ZONING:** The property is currently zoned A (Agricultural District) upon annexation into the City of Gardner (Ord 2172).
5. **CHARACTER OF THE NEIGHBORHOOD:** The land immediately surrounding the subject property is characterized as the developing northwest fringe of the City of Gardner. Existing uses include Madison Elementary School and a developing single family subdivision to the far south; single family residential uses, a church facility, agricultural and residential uses on the west side of Waverly Road to the southwest ; a developing single family subdivision (Megan Valley) to the immediate west; agricultural uses to the south and north (proposed for a mixed use development Z-06-03 and Z-06-04); and two agricultural farms that are not incorporated into the City of Gardner to the immediate southeast (on the south side of 167<sup>th</sup> Street) and to the east (on the north side of 167<sup>th</sup> Street).  
  
The other significant character defining elements in this immediate area are the new overhead electrical power transmission lines running along the north side of 167<sup>th</sup> Street and the east side of Waverly Road, and the developing Gardner electrical substation site on the west side of Waverly Road, northwest of this subject property.
6. **LAND USE AND ZONING PATTERNS:** The surrounding properties are zoned R-1, Single Family Residential District, to the southwest and west; A, Agricultural District, to the immediate southwest and north; and Johnson County RUR to the immediate east and southeast.
7. **CONFORMANCE TO THE COMMUNITY DEVELOPMENT PLAN:** The Gardner Community Development Plan - 2003 denotes urban residential land uses and low-density residential development uses for this immediate area. Given the fact that the Development Plan Map shows the subject property as appropriate for low-density residential uses, the proposed CP-2, Planned General Business District, does not conform to the Community Development Plan.

The Community Development Plan pursues appropriate quantities and locations of commercial land throughout the City. The locational criteria for commercial development,

as discussed in the Commercial Land Use Goals, should be used as the basis for locating future commercial areas on the Development Plan Map and Future Land Use Map. The Commercial Land Use Goals are also used to evaluate the appropriateness of all rezoning and final development plan proposals for retail commercial developments. Commercial development areas are designed to occur in "nodes" by avoiding continuous lineal shallow lot depth commercial development along the City's street corridors.

Specific adopted policies in the Community Development Plan regarding commercial land uses are:

**Policy 1.5: Contain Commercial Development -**

Encourage the formation, retention, and expansion of commercial development within the existing commercial boundaries as shown on the Community Development Plan Map.

**Policy 2.1: Use Appropriate Transitional Methods -**

Appropriate transitional methods should be considered at all locations where the development or expansion of commercial land use abuts residential property (either built or zoned). The city strives to meet the following objectives when compatible transition is necessary:

a) Site Orientation:

- 1) Site design should be oriented toward thoroughfare or commercial streets.
- 2) Site access should be off of thoroughfare or commercial streets.
- 3) Where appropriate, streets may be used as boundaries between commercial and residential land uses.

**Policy 2.3: Allow the Option of Low-Intensity Office as Transitional Use -**

Allow low-intensity office development as an alternative transitional land use into low-density residential neighborhoods with these conditions:

- a) Such development must be compatible in architectural design, height, bulk, and building materials to the adjacent low-density residential developments.
- b) Such development must demonstrate compatible site design by the use of extensive screening, building and parking orientation, and preservation of natural site amenities.
- c) Traffic generated by such development must be directed away from residential areas and on to commercial streets.
- d) Such development is limited to areas shown as Office on the Community Development Plan Map.

**Policy 3.1: Follow Locational Criteria for All Commercial Development -**

The locational criteria for all commercial development are:

- a) Limit commercial development to the areas shown as Commercial on the Community Development Plan Map.
- b) Discourage the formation or expansion of strip commercial development by focusing new growth in a more clustered pattern.
- c) Promote the assembling of small tracts to form larger, more cohesive parcels to enable well-planned and orderly development to occur.
- d) Encourage commercial development to form as part of existing or new shopping centers as opposed to isolated parcels along commercial strips.
- e) Limit the principal access of commercial development to thoroughfare, reverse frontage, or commercial streets.
- f) Encourage commercial development to locate on sites having minimal slope to avoid substantial grading and disruption of natural drainage and vegetation.
- g) Promote the retention of stands of trees, natural vegetation, and environmentally sensitive areas whenever possible to act as buffers between developments and as site amenities within developments.

**Policy 4.1: Avoid Exceeding Street Capacity -**

Discourage the expansion of existing or the inclusion of new commercial development in areas where, even with street and traffic signal improvements, the additional traffic generated by such development would exceed the handling capacity of the street system.

Rezoning the property to RP-3, Planned Garden Apartment District, could be complementary with the intent and policies of the plan. The general goal of the plan for medium density

residential land uses is to help form residential neighborhoods that are stable, safe and aesthetically pleasing. Specific policies for medium and high-density land uses include:

**Policy 1.1: Ensure Quality Development**

Encourage emphasis on open space, access to light and air, and the provision of amenities generally associated with and available to low-density residential development in all medium- and higher-density residential developments.

**Policy 1.2: Preserve and Protect the Environment**

Encourage the preservation and protection of trees, natural vegetation, wetlands, and environmentally sensitive areas in medium- and higher-density residential developments to serve as site amenities.

**Policy 1.3: Provide Open Space**

Encourage the provision of usable open space on site by clustering buildings to minimize the creation of narrow strips of unusable open space in front of and between buildings.

**Policy 1.4: Consider Appropriate Density**

The number of dwelling units per acre in any residential category should be viewed as representing a density range rather than a maximum allowable density. The exact density of a specific tract is to be determined at the time of rezoning based on the following:

- a) Only projects with exceptional design and locational criteria will warrant density exceeding the midpoint of the density range.
- b) Natural constraints, public facilities, streets and traffic patterns, neighborhood character, community need and surrounding zoning and land use patterns are to be taken into consideration.

**Policy 1.5: Provide for Variety in Housing Types**

Encourage the use of a variety of housing types, including townhomes, patio homes, duplexes, zero lot line homes, cluster housing, garden apartments and retirement housing.

**Policy 2.1: Consider Land Use Relationships**

The relationship of land uses should reflect consideration of existing development, environmental conditions, and service and access needs. No higher-density development (more than 15 units per net acre) shall have a property line common with properties zoned for single-family and designated as Low-Density Residential on the Future Development Plan unless such low-density property is used for a nonresidential land use such as a church, school or park.

**Policy 2.2: Consider Access**

Higher-density residential developments shall have frontage and main access directly on major thoroughfares.

**Policy 2.3: Protect Areas Planned for Medium- and Higher-Density Residential Developments**

Avoid reducing medium- and higher-density residential areas as shown on the Future Development Plan Map by allowing encroachment of nonresidential land uses which are not customarily allowed in residential districts.

**Policy 2.4: Reserve Suitable Sites**

Reserve suitable land areas of adequate size to accommodate medium- and higher-density residential development near or adjacent to employment centers.

**Policy 2.7: Adhere to Future Development Plan**

A feasibility study for developments increasing the amount of medium- and higher-density residential areas beyond what is shown on the Community Development Plan Map may be required to assist in the evaluation of a proposed project. The feasibility study will include:

- a) Explanation of why the area is not adequately served by the medium- and higher-density residential development shown on the Community Development Plan Map.
- b) An analysis of the impact of traffic generated by the development on adjacent streets.

**Policy 3.1: Use Appropriate Transitional Methods**

Appropriate transitional methods should be considered at all locations where the development or expansion of either more or less intensive land uses abut medium- and higher-density residential property (either built or zoned). In general, transitions between different types of intensities of land use should be made gradually, particularly where natural or man-made buffers are not available. Compatible transition from nonresidential or higher-density residential uses to lower density residential uses should consider:

- a) Site Orientation:

- 1) Site design should be oriented so that less compatible uses such as recreational facilities are located in the interior of the development and not adjacent or in close proximity to low-density residential neighborhoods.
- 2) Site access should be off of collector or thoroughfare streets.
- 3) Where appropriate, streets may be used as boundaries between different intensities of land uses.
- b) Building Relationships:
  - 1) A back-to-back relationship is preferable between different intensities of residential land uses.
  - 2) Medium-density residential uses should not have lesser setbacks than abutting low-density residential uses.
  - 3) The height and bulk of a medium-density residential buildings and accessory structures (clubhouses, satellite dishes, etc.) should be oriented away from low-density residential neighborhoods to avoid creating a negative visual effect.
  - 4) Where medium-density residential development adjoins or faces a low-density residential area, the medium-density residential development should incorporate low-rise structures of a lower-density character for those areas closest to the low-density development.
- c) Land Features:
  - 1) Promote the retention of stands of trees, natural vegetation, wetlands, and environmentally sensitive areas whenever possible to separate medium- or higher-density residential development from other more or less intensive land uses.
  - 2) Where possible, use existing differences in topography to naturally separate medium- and higher-density developments and other more or less intensive land uses.
- d) Screening and Landscaping:
  - 1) Encourage the creative and extensive use of landscaping and berming techniques for effective buffering between differing intensities of land uses and to increase neighborhood privacy and security.
  - 2) Avoid the use of fences as a sole means of providing screening and buffering.
  - 3) Promote the use of existing vegetation such as stands of trees and hedgerows as natural buffers.
  - 4) Encourage the use of high quality materials in the construction of fencing and landscaping to decrease long-term maintenance costs and to make it less likely that neglected, unsightly areas will occur.
- e) Lighting:
  - 1) Any lighting used to illuminate parking areas, signs or other structures shall be arranged so as to deflect light away from any adjoining property or from public streets through fixture type, height, and location.
  - 2) Exterior lighting of buildings shall be limited to low level incandescent spotlights, floodlights, and similar illuminating devices hooded in such a manner that the direct beam of any such light source will not glare upon adjacent property or public streets.

**Policy 3.4: Allow the Option of Medium-Density Residential as a Transitional Use**

Allow the use of medium-density residential as a transitional land use between low-density residential and other more intensive uses.

8. **STAFF ANALYSIS OF THE APPLICATION:** The applicant's original request was to rezone 16.8 acres to CP-2 and 17.8 acres to RP-3. Based on work session discussions between the applicant's representative and Planning Commissioners, a revised development plan has been submitted for consideration with this rezoning application since this request was first considered at the February 27, 2006, meeting.

The revised development plan for the commercial areas indicates ten commercial retail buildings totaling 132,900 square feet of commercial space, an increase from the nine commercial retail buildings totaling 117,000 square feet shown on the original development plan presented at the February 27, 2006, Planning Commission meeting. No new building elevations were provided with the revised development plan for the proposed commercial development areas.

The revised development plan now includes 272 units within twelve buildings, plus a club house facility, for the RP-3, multi-family garden apartment, area. New legal descriptions that reflect the revised commercial and apartment layouts have not been provided to staff, so the proposed residential density cannot be calculated.

The submitted request is to rezone the property to two planned zoning districts, which provide for the review and scrutiny of a development plan showing lot layout and on-site improvements, as well as architectural plans and proposed building elevations, all to be tied to the overall zoning approval process. A sampling of one sided building elevations was submitted with this rezoning request and with the two rezoning requests to the north and south (Z-06-02 and Z-06-04). Specific architectural plans for the two story apartment buildings were submitted for consideration with the original rezoning and development plan request.

Of the three submitted rezoning requests for the McCann property, this request for retail commercial and medium-density development deviates most from the adopted Community Development Plan map and policies. The introduction of commercial retail land use in this immediate area of the community is pure speculation. In staff's opinion, the commercial rezoning request is not the appropriate location in the community that will attract quality commercial businesses and tenants. By zoning land in this immediate area for commercial land uses, the City would establish by approved land use policy the need to develop high intensity land uses on the 100 acre Burgdorfer property located on the south side of 167<sup>th</sup> Street to the southeast of this rezoning request.

While there is a strong community wide desire to plan for and accommodate retail locations in all parts of the city, the critical evaluation of the established policies and criteria for allowing new commercial development areas should be done judiciously, to prevent establishing an open door policy of allowing high intensity retail and commercial uses on the corner properties of every section line road in the City. Not all areas of the community would have the necessary exposure and high volume future traffic counts to ensure that commercial developments would attract a healthy mix of good tenants over time. In staff's opinion and based on anticipated future traffic volumes along both 167<sup>th</sup> Street and Waverly Road, this proposed retail development area will lack the traits that commercial business owners and successful future retail tenants would desire. By allocating and zoning too many commercial areas within the City of Gardner, staff fears that the sustainability of many of the community's commercial areas could be compromised.

Also, the planned road system within the City of Gardner cannot readily accommodate commercial development in all areas. Currently, this site is served by a two lane chip and seal ditch profile road on 167<sup>th</sup> Street and a gravel road on Waverly Road north of 167<sup>th</sup> Street. If this rezoning request is recommended for approval, staff will provide suggested stipulations of approval that would require the developer(s) of this retail and medium density development(s) to improve the frontage of either or both Waverly Road and 167<sup>th</sup> Street to a City street standard that could safely accommodate the proposed land uses.

From staff's perspective, it would be best to keep this subject property in its current agricultural zoning district to allow the community to evaluate and re-evaluate the market needs, sizes, scopes and locations of future commercial retail and apartment areas as part of a long range planning process, rather than to grant a premature speculative rezoning

request, especially one that is mostly contrary to the adopted Community Development Plan maps and policies.

**STAFF RECOMMENDATION:** Staff recommends that the Planning Commission forward the rezoning application Z-06-03, rezoning 47.64 acres from A (Agricultural District) to CP-2 (Planned Single Family Residential District) and RP-3 (Planned Garden Apartment District), to the City Council with a recommendation for denial.